

## **REMARKS/ARGUMENTS**

Reexamination of the captioned application is respectfully requested.

### **A. SUMMARY OF THIS AMENDMENT**

By the current amendment, Applicants basically:

1. Insert a paragraph into the specification which was omitted from the April 24, 2008 Amendment. This paragraph was originally filed with the application and in the original PCT application.
2. Respectfully traverse the new matter objection alleged under 35 USC §132(a).
3. Amend claim 25 to moot the rejection under 35 USC §112, second paragraph.
4. Amend dependent claim 15 to remove multiple dependency<sup>1</sup>
5. Respectfully traverse all prior art rejections.

### **B. TRAVERSAL OF 35 USC §132(a) OBJECTION**

Applicants respectfully traverse the new matter objection alleged under 35 USC §132(a) (see page 2 of the Final Office Action). The amendment filed April 24, 2008 did NOT insert new matter, but rather was clearly remedial in correcting figure number errors (and doing so in a way manifestly supported by the remainder of the original disclosure).

The changes to the specification filed in the 24 April 2008 Amendment involved changes to select figure numerals, i.e., from Fig. 1 to Fig. 5 and from Fig. 2 to Fig. 6. As

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<sup>1</sup> Insofar as the undersigned can determine, Applicants have never been assessed and have never paid a multiple depend claim fee (and do not wish to be charged now). Accordingly, the current amendment should expeditiously and economically resolve the dependency issues of claim 15.

stated above, these changes to the figure numerals were a correction of formal errors only. For instance, in the paragraph beginning with "For the compressed mode ...", "Fig. 1" has been corrected as "Fig. 5" because it is Fig. 5 that should be referred to. As can be clearly seen from the drawings, Fig. 1 shows a frame structure for uplink DPDCH/DPCCH while Fig. 5 shows a frame structure in uplink compressed transmission. Since the paragraph in question is directed to the compressed mode communication, it is very clear that Fig. 5 (and not Fig. 1) should be referred to. Furthermore, the third sentence in this paragraph, *"The upper slot structure in Fig. 5 designated by the term 'data' forms consecutive uplink UMTS slots (two slots shown) which can be separated by transmission gaps TGs (one transmission gap TG shown) when operated for uplink compressed transmission's clearly corresponds to Fig. 5 and not Fig. 1.*

Essentially the same can be said for the change from "Fig. 2" to "Fig. 6" in the paragraph beginning with *"UMTS downlink communications utilize a different frame structure compared to uplink communications"*. Fig. 2 shows a frame structure for downlink DPCH while Fig. 6 shows frame structure types in downlink compressed transmission. From the third sentence of the paragraph in question, it is explicitly indicated that this paragraph is directed to "downlink compressed transmission". Hence Fig. 6 (and not Fig. 2) should be referred to. Further, the second sentence in this paragraph, "A frame structure type A (see Fig. 6(a))" proves that Fig. 6 is actually referenced.

In summary, the figure numeral amendments are purely corrections of typographic/formal errors. It is therefore requested that the finding of new matter be withdrawn.

### **C. CORRECTION OF AMENDMENT ERROR TO SPECIFICATION**

Page 7 of the April 24, 2008 amendment did contain an error which may have been construed to in correctly delete a certain paragraph. Accordingly, it is now respectfully requested that the paragraph in question be re-inserted at page 12, at line 33. The paragraph in question was clearly present in the PCT national stage application as originally filed (see page 12, the last paragraph of the specification of the PCT application). Therefore, entry of this specification amendment is respectfully requested.

### **D. THE CLAIMS ARE DEFINITE**

The rejection of claim 25 under 35 USC §112, second paragraph has been mooted by including in amended dependent claim 25 the phrase “the second communications resources include a second frequency range”. The subject matter of this phrase is already supported by dependent claim 21, which depends from the same base claim. Therefore, the rejection is rectified without introducing new issues.

### **E. PATENTABILITY OF THE CLAIMS**

Claims 1-49 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Patent 5,732,076 to Ketseoglou et al in view of U.S. Patent 5,793,759 to Rakib et al. All prior art rejections are respectfully traversed for at least the following reasons.

The final office action again rejects the claims as being obvious over US 5,732,076 (Ketseoglou et al) in view of US 5,793,759 (Rakib et al).

Applicants again submit that the pending claims are patentable for reasons including those articulated in their April 24, 2008 remarks, all of which are incorporated and realleged herein. In addition, in support of patentability of the pending claims Applicants present the further remarks which appear below.

It would have not been obvious to one of ordinary skilled in the art to modify Ketsoglou with the teachings of Rakib; nor is there any motivation for one of ordinary skilled in the art to combine Ketsoglou with Rakib. Further, even if the skilled person would do so, the claimed invention would not result.

Referring to current independent claim 1, the office action has expressly acknowledged that Ketsoglou does not disclose *"using the at least one transmission gap for communications according to the second communications standard type"*. See the Office Action, page 6, the second paragraph.

As stated in Ketsoglou (column 24, lines 34-40), not using the transmission gap for communications results in communication inefficiency and may further lead to less flexibility. This is a significant critical technical disadvantage of Ketsoglou.

Rakib discloses that frame alignment is achieved by alignment of timing signals transmitted by remote units to guardbands or gaps between frames (column 4, lines 49-51). However, the "gap" referred to in Rakib (see, e.g., Fig. 4A, blocks 61 and 71), as compared with symbols carrying information intended for subscribers (see Fig. 4A, blocks 62, 64, and 66), serves merely as a time delay by including random noise energy (column 17, lines 12-12) and contains "no other data" (see Abstract, lines 20-22). Obviously, such a gap does not carry any information, i.e., traffic, for the various channels of digital data to be provided to the subscribers. In other words, such a gap is not used "for communications according to the second communications standard type" which is used in Applicants' claims.

Thus, it seems clear that the teachings of Rakib cannot solve the inefficiency problem posed by the Ketsoglou technology. Therefore, one of ordinary skilled in the art would not be motivated to modify Ketsoglou with Rakib.

As indicated by Applicants' Fig. 17, the time space indicated by  $t_{off}$  is used for frame alignment and thus corresponds to the gap of Rakib (see also the specification of the PCT application as originally filed, page 26, the last paragraph, which begins with "as indicated by  $t_{off}$ "). However, this  $t_{off}$  is different from the "transmission gap", which is shown as TGL in Applicants' Fig. 17. Referring to the specification of the PCT application as originally filed, page 25, the second last paragraph, "to transmit second frames or at least slots thereof ..." means exactly that the TGL is used for traffic transmission according to the second communications standard type. The frame-alignment purpose  $t_{off}$ , however, does not perform the function of the TGL.

Therefore, even if the skilled person would modify Ketseoglou with Rakib, he would only arrive at the  $t_{off}$  and not the TGL. That is, he still could not arrive at Applicants' claims, and particularly not the limitation of "using the at least one transmission gap for communications according to the second communications standard type".

## F. MISCELLANEOUS

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly solicited.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

HILDEBRAND et al.  
Serial No. 10/538,350

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**Art Unit:** 2617

Respectfully submitted,

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